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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,936	07/03/2001	Paul DiCarlo	BSI-479US	1985

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EXAMINER

LANDREM, KAMRIN R

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,936

Applicant(s)

DICARLO, PAUL

Examiner

Kamrin R. Landrem

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/19/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 15-24 and 28-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3,5,7-10 and 25 is/are rejected.
- 7) ☒ Claim(s) 2,4,6,11-14,26,27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group 1 (Claims 1-15, 25-27, 33,34) and embodiment A (Figs. 1-3, 6) in Paper No. 4 is acknowledged.

Claims 15-24, and 28-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected embodiment there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

Claim 15 is withdrawn as being directed to a nonelected Group. Claim 15 recites a device comprising an attachment tab.

Claims 33 and 34 are withdrawn as being directed to a non-elected species. Claims 33 and 34 recite features shown in alternate embodiment of invention, see Fig. 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1,3,5,7-10, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Sparer et al (USPN 6,159,240).

Claim 1, with regards to prosthetic component (30) comprising a graft (34) having a hem (33) defining an interior space and a cord (32) disposed within interior space for absorbing fluid for aiding fixation of prosthetic component (30) against body lumen. See Fig 4 for structural features and col. 3, lines 25 and col. 6, lines 14-45 for absorbing features of cord (32).

Claim 3, with regards to hem at distal end of component, see Figs. 3-5.

Claim 5, with regards to compressed state; it is inherent that the cord is compressed prior to implantation of prosthetic component, see disclosure.

Claim 7, with regards to flat ribbon shape, see Fig. 4.

Claim 8, with regards to shape, see col. 3, lines 3-7.

Claim 9, with regards to outer coating, see col. 7, lines 35-50.

Claim 10, with regards to porosity, see col. 7, lines 20-35.

Claim 25, with regards to method of implanting a device in a body lumen comprising the steps of introducing a prosthetic component (30) comprising a graft (34) having a hem (33) defining an interior space and a cord (32) disposed within interior space for absorbing fluid for aiding fixation of prosthetic component (30) against body lumen, and contacting said cord (32) with fluid to aid fixation against body lumen, see col. 3 lines 33- col. 8 line 30. See Fig 4 for structural features and col. 3, lines 25 and col. 6, lines 14-45 for absorbing features of cord (32).

Allowable Subject Matter

Claims 2, 4, 6, 11-14, 26, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents contain relevant material, Barefoot et al (USPN 3,726,279), Chobotov (USPN 6,395,019), Hughes (USPN 4,728,328), Lentz (5,522,881), Holman et al (USPN 6,059,823), and Inoue (USPN 6,013,100).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamrin R. Landrem whose telephone number is 703-305-8061. The examiner can normally be reached on 8:00-5:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3905 for regular communications and 703-308-3905 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Kamrin Landrem
Examiner
AU 3738

KRL
April 2, 2003



David J. Isabella
Primary Examiner